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| 10/787,063 | 02/25/2004 | Darryl C. Bassani | BASSA.023A | 9542 |
| 20995 | 7590 | 09/16/2005 | EXAMINER | |
| KNOBBE MARTENS OLSON & BEAR LLP | | | EDWARDS, LOREN C | |
| 2040 MAIN STREET | | | ART UNIT | |
| FOURTEENTH FLOOR | | | PAPER NUMBER | |
| IRVINE, CA 92614 | | | 3748 | |

DATE MAILED: 09/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/787,063

Applicant(s)

BASSANI, DARRYL C.

Examiner

Loren C. Edwards

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 2/24/05 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2/25/2004.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Information Disclosure Statement

1. The applicants' information disclosure statement (IDS) submitted on 02/25/2004 are acknowledged. The examiner has considered the references listed therein.

Drawings

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: 228 and 230. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

3. The disclosure is objected to because of the following informalities: The use of the word "know" (page 7 paragraph 30) is incorrect. The examiner suggests "known".

Appropriate correction is required.

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4. Claim 18 is objected to because of the following informalities: The claim is missing a period. Appropriate correction is required.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claim 4 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. It is unclear what portion of the flange has a chamfered surface. The chamfer is neither illustrated nor defined in the verbiage of the specification.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.

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3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

9. Claims 1-2, 4-6, 8-11, 13-15, and 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zitz (U.S. Patent No. 2,694,583) in view of Coff (U.S. Patent No. 5,944,322). Zitz discloses an exhaust header with a plurality of metal flanges, which are configured to attach an exhaust pipe to an engine head comprising two bolt holes. Zitz defines a recessed sealing surface (Fig. 2 Number 3) with a circular and annular shape (Fig. 4) to form a separate seal between each flange and the exhaust port. Zitz also shows a plurality of head pipes in flow communication with the plurality of flanges (Fig. 1). It is deemed that the portion of the header that joins all of the exhaust pipe's is a collector and that the portion of the manifold in Figure 1 where the break is drawn in the pipe is such. Zitz, additionally, discloses an exhaust header wherein the recessed sealing surface has a substantially circular shape. Zitz shows a chamfer on the inside surface of the flange as depicted by the edges of item 13 in Fig. 2. Zitz, however, does not disclose the material of the gaskets. Specifically, Zitz fails to disclose the gaskets being made of reinforced graphite with a melting temperature of at least 2000 degrees Fahrenheit. Coff teaches the material for a gasket being used in an internal combustion engine application being made of graphite (Column 4, Line 12). Coff explains how such a gasket would be economical to manufacture and capable of withstanding the prolonged exposure to high temperatures and thermal cyclings found in the environment of an internal combustion engine (Column 4, Lines 14-19). Coff also discloses a graphite gasket wherein the graphite protrudes above the mating surface

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(Fig. 5 t_1' and t_2'). It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the graphite from the sealing ring of Coff in the Zitza manifold to enhance the compressive, heat resistant, and overall sealing characteristics of the ring. With regards to the method of assembly set forth in claims 19-20, such would be inherent to the modified Zitza device in that it involves all the same elements as claimed, and would inherently be assembled by the method claimed.

10. In regards to claim 5 and 14 Zitza does not disclose expressly a recess having a depth of approximately 0.1 inches. At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to set the depth of the recess to 0.1 inches because Applicant has not disclosed that a depth of 0.1 inches provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with a recess of another depth because it would have allowed for another sized gasket to fit in the recess.

11. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Zitza in view of Coff as applied to claim 2 above, and further in view of Itoh (U.S. Patent No. 6,256,990). Zitza discloses a flange with two bolt holes except the bolt holes are closed. The Itoh reference teaches a means for attaching a header or manifold to an engine, which uses an open bolt hole (Figure 1 Numbers 11b, and 14b). It would have been obvious to one having ordinary skill in the art at the time of the invention to modify

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the closed hole design of Zitza to an open bolt hole design in view of the teachings of Itoh for ease of placement and assembly in that open bolt design only requires loosening of the bolts instead of removal for servicing.

12. Claims 7 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zitza in view of Coff as applied to claims 1 and 10 above, and further in view of Inman (U.S. Patent No. 5,148,675). The modified Zitza discloses an exhaust header with a recessed sealing surface but fails to disclose one with a rectangular shape. Inman teaches an exhaust manifold with a substantially rectangular shape. It would be obvious to one having ordinary skill in the art at the time the invention was made to make the shape of the exhaust passage of the header the same shape as the opening of the engine head's exhaust port that it mates to. Many engines have rectangular exhaust ports and to make the header's ports and sealing surfaces the same shape would minimize resistance between the two.

13. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Zitza in view of Coff as applied to claim 11/10 above, and further in view of Adams (U.S. Patent No. 4,968,066). The modified Zitza discloses a metallic flange for use with a header but does not disclose the specific material. Adams teaches a similar flange made of iron, which can be economically produced (Column 3, Lines 56-59). It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the flange of Zitza out of iron in view of Adams to reduce the cost of materials.

14. Claims 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zitz in view of Coff as applied to claim 10 above, and further in view of Brooks (U.S. Patent No. 3,875,744). The modified Zitz discloses an apparatus configured to attach an exhaust pipe to an engine head to form an exhaust header but lacks a cross-sectional area which varies, or which increases. Brooks teaches an exhaust system which has a cross sectional area that both varies and increases as it moves away from the engine (Fig. 1-3). It would have been obvious to one having ordinary skill in the art at the time of the invention to make a flange that had a cross sectional area that varied and increased in order to reduce the back pressure of an exhaust system.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Loren C. Edwards whose telephone number is (703) 272-2765. The examiner can normally be reached on M-F 7-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Denion can be reached on (571)272-4859. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


THOMAS DENION
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700